

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JUICE ENTERTAINMENT, LLC,

4 Plaintiffs, . Case No. 11-cv-07318-ccc-clw

5 | vs.

6 LIVE NATION ENTERTAINMENT, . September 27, 2019
INC., :
:

Defendants.

TRANSCRIPT OF ORAL OPINIONS
BEFORE THE HONORABLE CATHY L. WALDORF
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: No attorneys present.

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18 This oral opinion has been reviewed and revised in accordance with L. Civ. R. 52.1

19 Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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(Commencement of proceedings 12:23 P.M.)

THE COURT: It's 12:23 on September 27th, 2019.

4 This is an oral opinion in Juice Entertainment versus Live
5 Nation, 11-cv-07318. This is a motion to strike plaintiff's
6 expert report, and plaintiff alleges unclean hands, an
7 unclean hands theory in that the defendant was often
8 recalcitrant, or late, or non-compliant with discovery; and
9 attaches, has 200 pages of exhibits ECF-109-1, that include
10 letters to the Court, and motions to compel, as illustrating
11 actual discovery disputes, and Court resolution that caused
12 those delays.

13 Plaintiff further argues that, due to defendant's
14 late submission of discovery in May 2016, that was necessary
15 to prepare the proposed expert report, which was disclosed on
16 June 6th, 2019, was the cause of the delay in the late report,
17 some three years after discovery was available to plaintiff.

18 Of note in this litigation, original counsel was
19 substituted on September 7th, 2019. A motion for summary
20 judgment was filed on October 17th, 2016, ECF-73. Opposition
21 on December 19th, 2016, ECF-75. And reply on January 23rd,
22 2017, ECF-76. Judge Walls issued his opinion and order, that
23 ECF-81 and 82, on May 23rd and 24th of 2018.

Judge Walls held that only nominal damages can be recovered on the defamation claim. "Plaintiff's defamation

1 claim can survive summary judgment. However, because of the
2 Presumed Damages Doctrine, any recovery at trial, on the
3 defamation claim, will be limited to those nominal damages."
4 ECF-81 at page 18.

5 Furthermore, Judge Walls decided that, "While
6 plaintiffs may have successfully promoted and produced
7 smaller shows, the Event was of a much larger scale, and
8 plaintiff's sole foray into larger scale outdoor event
9 production resulted in losses, not profits. Lost profit
10 damages are thus too remote and speculative to meet the legal
11 standard of reasonable certainty." RSB citing RSB Lab
12 Services, 368, N.J. Super. 556. That's ECF-81 at page 20.

13 Judge Walls granted summary judgment as to count
14 one, tortious interference with contract; and limited damages
15 on count three, the defamation claim; and precluded damages
16 on count two.

17 Plaintiff now submits to defendant an expert report
18 on damages, which was not supplied to the Court in its
19 opposition to the motion to strike. Defendant moves to
20 strike the report due to a lack of timeliness, which with the
21 Court agrees.

22 Furthermore, any proposed expert report is in
23 contravention of Judge Walls' summary judgment opinion and
24 order, and hints at this Court reversing his opinion.

25 For the above stated reasons, the motion to strike

Decision
11-cv-07318-ccc-clw, September 27, 2019

1 is granted. And motion docket number 105 will be terminated.
2 An order will follow.

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4 (Conclusion of Proceedings at 12:27 P.M.)

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11-cv-07318-ccc-clw, September 27, 2019
Certification

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11 I further certify that I am in no way related to any of
12 the parties hereto nor am I in any way interested in the
13 outcome hereof.

14
15 /s/ *Jenny Power* 1st of October, 2019
16 Signature of Approved Transcriber _____ (Date)

18 Jenny M. Power, AOC #640
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1st of October, 2019

(Date)